

REMARKS

Claims 1 and 31-39 are currently pending and stand rejected. By way of this response, claims 1, 34, and 35 have been amended. No new matter is presented by way of this amendment.

I. The Priority Claim

The Examiner states that the “USPTO filing date for PCT/US03/01216 [is] 01/16/2003.” However, the Applicant respectfully disagrees with the January 16, 2003 filing date. The USPTO’s Private PAIR site provides that the international filing date of PCT/US03/01216 is January 15, 2003. The U.S. publication of this Application, Pub. No. US 2005/0076921, also provides that the PCT was filed on “Jan. 15, 2003.” In addition, the Application Data Sheet submitted with this Application provides that the filing date of PCT/US03/01216 is January 15, 2003.

Similarly, the WIPO publication of PCT/US03/01216 (*i.e.*, WO/2003/059154), and the International Search Report, provide that the international filing date of PCT/US03/01216 is January 15, 2003. Thus, the Applicant respectfully submits that the international filing date of PCT/US03/01216 is in fact January 15, 2003.

II. The Election/Restriction Requirement

Applicant affirms the provisional election, without traverse, to prosecute the invention of Group I and Species S, claims 1 and 31-39.

III. Claim Objections

Claims 34 and 35 were objected to because of their use of the trademark, “Velcro ONE-WRAP strap.” Applicant respectfully submits that the amendments to claims 34 and 35 overcome this objection as the generic term for “Velcro ONE-WRAP strap” is now used in those claims.

IV. Double Patenting Rejection

Applicant notes that claims 1, 34, and 38-39 stand provisionally rejected as unpatentable for non-statutory obviousness-type double patenting over claims 1-5 of U.S. Patent No. 6,526,981. Applicant respectfully submits that upon allowance of the pending claims, Applicant will submit a terminal disclaimer.

V. Claim Rejection – 35 U.S.C. § 102

Claim 1 stands rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,257,240 (“Shesol”). Applicant respectfully submits that amended claim 1 is not anticipated by Shesol.

M.P.E.P. § 2131 provides that “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). Furthermore, “[t]he identical invention must be shown in as complete detail as contained in the...claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). Lastly, “the elements must be arranged as required by the claim....” *In re Bond*, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990).

In this case, Shesol does not disclose each and every element of amended claim 1. Thus, claim 1 is not anticipated by Shesol and Applicant requests that this rejection be withdrawn.

VI. Claim Rejection – 35 U.S.C. § 103

Claims 31-33 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Shesol in view of U.S. Patent No. 6,142,966 (“Hely”). Claims 34 and 35 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Shesol. Claims 36 and 37 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Shesol in view of U.S. Patent No. 5,807,300 (“Nix”). Claims 38 and 39 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Shesol in view of U.S. Patent No. 6,132,399 (“Shultz”).

However, as explained above, Shesol does not disclose each and every element of amended claim 1. Moreover, no combination of Shesol, Hely, Nix, and Shultz discloses all of the elements of amended claim 1. Therefore, amended claim 1 is patentable over Shesol, Hely, Nix, and Shultz.

As amended claim 1 is patentable over Shesol, Hely, Nix, and Shultz, claims 31-39 are also patentable as they depend on claim 1. Accordingly, Applicant respectfully requests that this rejection be withdrawn.

VII. Conclusion

For at least the foregoing reasons, it is respectfully submitted that claims 1 and 31-39 are in condition for allowance. Early and favorable consideration is respectfully requested, and the

Examiner is encouraged to contact the undersigned with any questions or to otherwise expedite prosecution.

Further, none of Applicant's amendments or cancellations are to be construed as dedicating any such subject matter to the public, and Applicant reserves all rights to pursue any such subject matter in this or a related patent application.

Respectfully submitted,


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